IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5697 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? :

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

METTECH ENGINEERING WORKS

Versus

GUJARAT STATE FINANCIAL CORPORATION

Appearance:

PARTY-IN-PERSON for Petitioner No. 1

MR RD DAVE for Respondents No. 1,4

NOTICE SERVED for Respondents No. 1,2

DELETED for Respondent No. 3

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 06/12/2001

ORAL JUDGEMENT

The present petition is filed by Messrs Mettech Engineering Works, through its partner, Mr.Hasmukhlal Parikh, who has argued the matter Party in Person. The petition is filed challenging the proceedings conducted by respondents no.1 and 2, i.e. Gujarat State Financial Corporation (GSFC) and the Regional Manager of GSFC, pursuant to the advertisement dated 25.5.1995 so far it relates to the petitioner's concern relating to the opening of tenders on 13.2.1995 and further relief is sought for quashing and setting aside the decision of respondents no.1 and 2 accepting the order of respondent no.4 to purchase the property of the petitioner- firm.

2. Short facts giving rise to the present petition are that the present petitioner- firm had applied for a loan to the respondent corporation on 9.12.1998 of Rs.6,37,000/-. The petitioner availed of the loan of Rs.5,96,272/- at the interest of 14% per annum. In the year 1990 Bank of Baroda extended cash credit facility on the condition that Bank of Baroda should have second charge on the land, building, plant and machinery of the petitioner unit. The petitioner was supposed to repay the loan amount by quarterly instalments consisting of principal and interest amount. As there were defaults committed by the petitioner- firm, the respondent GSFC was constrained to serve a notice under section 29 on 10.10.1991 and again on 16.9.1992. Besides the aforesaid notices, some attempts to find out a solution to the problem were made. In view of that certain cheques were given by the petitioner to the respondent Corporation, but they were not honoured. Ultimately, the respondent-corporation was constrained to take over possession of the petitioner- unit on 3.5.1993.

3. Having taken possession, the respondent, GSFC had issued advertisement on 11.5.1993 inviting tenders. The Tender Committee met on 19.5.1993 to finalise the tenders and took a decision. The petitioner approached the civil court and obtained injunction. Therefore, decision to finalise tenders was postponed. The respondent corporation got valuation of the unit done by valuation report dated 17.5.1993 by which property is valued at Rs.16,30,000/-. In the civil proceedings filed by the petitioner unit, application- exhibit 5 came to be rejected on 31.5.1995 and the injunction granted earlier vacated. The petitioner filed an appeal before the learned District Judge, Mehsana, which also came to be dismissed on 10.3.1995. Thereafter the present petition is field, wherein this Court did not grant any interim relief. It is also pointed out that in fact the

petitioner was not in a position to run its unit and therefore, in the year 1994, permission was sought to sell the plant and machinery, which was granted by the respondent- corporation on 19.1.1994 on the condition that the sale proceeds will be deposited with the corporation.

4. The respondent corporation again issued an advertisement on 25.9.1995, wherein respondent no.3, Messrs Kanaiya Gruh Udyog, Mehsana submitted offer of Rs.18 lakhs. Respondent no.4, Mr.C.S. Mistry, submitted offer of Rs.16,01,111/-. As respondent no.3 did not deposit necessary amount by way of security there was no question of offering his bid. Consequently, the offer of respondent no.4 has been accepted on 13.6.1995. Sale letter was issued to respondent no.4 after receiving full payment of the amount offered by him. Thereafter, possession was handed over to respondent no.4 on 5.7.1995. There was some surplus amount which was paid back to the petitioner which fact was admitted by the petitioner in his affidavit in rejoinder dated 10.4.2001, with a grievance that the said amount was not paid well within time. The respondent corporation was therefore, constrained to pay the amount of interest for the said late payment. Be that as it may. The root question is that the petition involves disputed questions of fact as to whether the petitioner was really in default or not. The case of the petitioner as argued by him as Party in Person, with all vehemence at his command, is that the petitioner- unit was never in default in making payment to the respondent corporation. His case is that, 'in fact the petitioner unit is entitled to certain subsidy under the policy of the Government and that amount was about Rs.10 lakhs which was to be paid by the respondent corporation. Since the respondent corporation has not paid the same, the dispute arose. This Court cannot go into the questions as to whether; The petitioner was entitled to any subsidy? If so, whether such subsidy was unlawfully withheld by the respondent corporation?

The case of the petitioner is that subsidy was payable in the year 1990 to the petitioner, but it was not paid. On the contrary proceedings for default in payment were undertaken by the respondent corporation.

5. In view of the aforesaid discussion, the petition is dismissed. Rule is discharged.

6. Had it been a case represented by an advocate, the cost would have been awarded to the respondents. But as the Party in Person is appearing who is not expected

to appreciate the niceties of law, cost is not awarded.

(Ravi R. Tripathi, J.)

karim